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EXAMINER	
CAMPOS, YAIMA	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/814,821	ICHIKAWA ET AL.	
	Examiner	Art Unit	
	YAIMA CAMPOS	2185	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 January 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6,8-11,13-16,18-21,25,26,28,32,33 and 35-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6,8-11,13-16,18-21,25,26,28,32,33 and 35-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. As per the instant application having Application No. 10/814,821, the examiner acknowledges the applicant's submission of the amendment dated January 26, 2009. At this point, claims 6, 11 and 13-15 have been amended, claims 1-5, 7, 12, 17, 22-24, 27, 29-31 and 34 have been canceled, and claims 39-42 have been added. Claims 6, 8-11, 13-16, 18-21, 25-26, 28-33 and 35-42 are pending.

REJECTIONS BASED ON PRIOR ART

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claims 6, 8-11, 13-16, 18-21, 25-26, 28, 32-33 and 39-41** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparks (US 2004/0015965) in view of Crawford (US 7,080,051).

4. As per claims 6, 11 and 15, Nakamura discloses A communication device comprising:

operation input means for receiving a request command from a user that requests transmission of contents; **["panel operator 70 to select a desired music piece" (par. 0069; also see pars. 0068, 0070-0072; fig. 2 and related text)]**

means for temporarily storing data; **["RAM 63" (par. 0061; fig. 2 and related text)]**

content storage means composed of nonvolatile memory; **["non-volatile RAM 64" which "may be an EEPROM" (pars. 0059 and 0061; fig. 2 and related text)]**

said processor, in response to receipt of said contents writes said contents only in said means for temporarily storing data when said storage control information is indicative that said contents are for trial use and should be stored temporarily, or writes said contents in said content storage means when said storage control information is indicative that said contents should remain stored in said communication device; **[trial-listening music data is stored temporarily to volatile RAM 63 (pars. 0061, 0075) wherein "trial-listening music data cannot be registered… (*or stored in non-volatile RAM 64*) data indicating that the music data is the trial-listening music data" is written in the header (pars. 0061, 0073, 0075, 0101) wherein regular music data is registered or stored in non-volatile RAM (pars. 0086-0087) and information indicating that data is regular music data is also present in the header (par. 0112)]**

said processor, after said contents are stored in said means for temporarily storing data, processes or executes said contents automatically for trial use, **[portable telephone processes or executes trial data in RAM 63 (pars. 0075-0076)]**

said processor, in accordance with said storage control information associated with said contents being indicative that said contents should remain stored in said communication device, and in response to receipt of a store command initiated by said user with said means for receiving a request command from a user, reads said contents from said means for temporarily storing data, and writes said contents in said content storage means **[trial-listening music data is stored temporarily to volatile RAM 63 (pars. 0061, 0075) wherein "trial-listening music data cannot be registered… (*or stored in non-volatile*

***RAM 64*) data indicating that the music data is the trial-listening music data" is written in the header (pars. 0061, 0073, 0075, 0101) wherein, when the user purchases regular music data, as indicated by header information, and upon user commands to store or register the data, regular music data is registered or stored from RAM 63 to non-volatile RAM 64 (pars. 0084-0087, 0101 and 0110-0112)]** wherein the processor receives said contents from a wireless network (claim 15) **[Nakamura discloses cell phone downloading contents from server (fig. 1 and related text)]**.

Nakamura does not expressly disclose a processor receives said transmitted contents in a first transmitted message and in a separately transmitted second message, said first transmitted message comprising a file that includes storage control information associated with said contents, and said second transmitted message comprising a software program associated with said contents; nor said processor… processes or executes said contents automatically for trial use, absent receipt of any command initiated by a user.

Kamada discloses a processor receives said transmitted contents in a first transmitted message and in a separately transmitted second message, said first transmitted message comprising a file that includes storage control information associated with said contents, and said second transmitted message comprising a software program associated with said contents; as **[a method/system wherein a terminal device, such as a cell-phone (par. 0150) downloads applications from a network wherein an "ADF file is application attribution data to be downloaded prior to downloading of the Jar file (or program)" (pars. 0153, 0206-0207) wherein the ADF files stores control**

information indicating whether the program or Jar file is for trial use or for unlimited use (pars. 0154, 0181, 0273-0276, 0293 and 0312)].

Sparks discloses said processor… processes or executes said contents automatically for trial use, absent receipt of any command initiated by a user as **["demonstration configuration data" wherein "a demonstration program configured to automatically load and execute the middleware program and server program on a single computer and to temporarily store the demonstration configuration data on the computer in a working middleware system… the demonstration system is preferably further configured to reverse all durable changes to the computer on completion of the demonstration" (pars. 0019-0022)]**.

Nakamura, Kamada and Sparks are analogous art because they are from the same field of endeavor of computer memory access and control.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the system/method taught by Nakamura wherein sound data downloaded from a server is classified into trial data which is temporarily stored in volatile memory and regular data which may be registered and stored in non-volatile memory in a cell-phone environment, apply this methodology to other data types downloaded from a server to a cell-phone device such as those taught by Kamada (*including software, electrical data and the like, pars. 0146 and 0316*), wherein a description file indicating whether data is for trial use or unlimited use is received at the cell-phone before a Jar or program file is received; and further, process/execute trial contents received in the volatile RAM taught by Nakamura, automatically, absent a user command, as taught by Sparks.

The motivation would have been because Kamada discloses the server and cell-phone downloading system where trial data is downloaded may be configured to apply to different kinds of data/application, wherein a description file indicating whether data is for trial use or unlimited use is received at the cell-phone before a Jar or program file is received is done in order to **[configure and better manage the download of files from the server, according to configuration information stored in the ADF file (pars. 00340153, 0206-0207)]**, and Sparks discloses process/executing trial contents automatically, absent a user command provides the advantage of **[providing fast execution and demonstration of application/software to a computer user in a temporary data storage device, without permanently making changes to the computer (pars. 0002-0003, 0013, 0019-0021)]**.

Therefore, it would have been obvious to combine Nakamura with Kamada and Sparks for the benefit of creating a communication device to obtain the invention as specified in claims 6, 11 and 15.

5. As per claim 8, the combination of Nakamura with Kamada and Sparks discloses a communication device according to Claim 6, "said processor determines whether a size of a free space of said content storage means is equal to, or greater than, a data size of said contents stored in said means for temporarily storing data; and in response to said size of said free space of said content storage means being equal to, or greater than, said data size of said contents stored in said means for temporarily storing data, said processor writes said contents processed or executed by said processor in said content storage means after reading said contents from said means for temporarily storing data" as **[Nakamura discloses regular music data is registered in empty space of RAM 64**

from RAM 63 (par. 0087) and Kamada discloses writing application data to local storage if there is enough space or deleting data when there is not enough space in order to make space for new application data (pars. 0226, 0277-278, 0294)].

6. As per claim 9, the combination of Nakamura, Kamada and Sparks discloses A communication device according to Claim 8, wherein: in response to said size of said free space of said content storage means being smaller than said data size of said contents stored in said means for temporarily storing data, said processor prompts a user to delete one or more other contents stored in said content storage means; and when, in response to said prompt, a command is received via said operation input means for receiving a request command from a user to delete said one or more other contents stored in said content storage means, said processor is determines if, after deletion of said one or more other contents, said free space of said content storage means will be equal to, or greater than, said data size of said contents, and said processor provides indication thereof to the user" **[Nakamura discloses data is deleted from RAM 64 in order to store new regular data wherein a user can designate a data to be deleted (pars. 0083, 0087) and Kamada discloses writing application data to local storage if there is enough space or deleting data by the user when there is not enough space in order to make space for new application data (pars. 0226, 0277-278, 0294) wherein the user may deleted unnecessary applications (par. 0214)]**.

7. As per claim 10, the combination of Nakamura with Kamada and Sparks discloses The communication device of claim 6, wherein said processor is deletes said contents that were stored in said means for temporarily storing data when said processor exits said contents that were being processed or executed by said processor **[Nakamura discloses**

trial music data is deleted from RAM 63 after it has been executed by processor a predetermined number of times (par. 0098). Sparks discloses "the demonstration system is preferably further configured to reverse all durable changes to the computer on completion of the demonstration" (pars. 0021-0022)].

8. As per **claims 13-14**, Nakamura discloses A communication device comprising:

means for receiving a first command manually input by a user; **["panel operator 70 to select a desired music piece" (par. 0069; also see pars. 0068, 0070-0072; fig. 2 and related text)]**

means for storing contents; **["RAM 63" (par. 0061; fig. 2 and related text) and "non-volatile RAM 64" which "may be an EEPROM" (pars. 0059 and 0061; fig. 2 and related text)]**

a processor to receive contents… comprising storage control information indicative that said contents should be stored temporarily or enduringly; **[storage control information is accessed from header data and trial data is stored temporarily in volatile RAM 63 while regular data is stored permanently or enduringly in non-volatile RAM 64 (pars. 0061, 0073, 0075, 0101,)]**

after said contents are received, said processor writes said contents in said means for storing contents in association with a first identifier flag indicating that said contents are to be stored temporarily in said means for storing contents; **[trial-listening music data is stored temporarily to volatile RAM 63 (pars. 0061, 0075) wherein "trial-listening music data cannot be registered… (*or stored in non-volatile RAM 64*) data indicating that the music data is the trial-listening music data" is written in the header (pars. 0061, 0073, 0075, 0085-0087, 0101)]**

in response to said contents being written in said means for storing contents, said processor processes or executes said contents automatically for trial use, **[portable telephone processes or executes trial data in RAM 63 (pars. 0075-0076)]** said processor stores said contents processed or executed by said processor in response to a second command received from the user via said means for receiving a first command manually input by a user; said processor, in accordance with indication with said storage control information that said contents can be stored enduringly, and in response to said second command, exchanges said first identifier flag for a second identifier flag that indicates said contents are stored enduringly in said means for storing contents enduringly **[trial-listening music data is stored temporarily to volatile RAM 63 (pars. 0061, 0075) wherein "trial-listening music data cannot be registered… (*or stored in non-volatile RAM 64*) data indicating that the music data is the trial-listening music data" is written in the header (pars. 0061, 0073, 0075, 0101) wherein, when the user purchases regular music data, as indicated by header information, and upon user commands to store or register the data, regular music data is registered or stored from RAM 63 to non-volatile RAM 64 (pars. 0085-0087 and 0010-00112) and explains that the flag indicating data is trial data may be deleted and a flag indicating data is regular data may be written to header data, wherein regular data may be stored enduringly but not trial data (pars. 0101, 0112)]**.

Nakmura does not expressly disclose a processor to receive contents comprising a first message and a second message, said first message received by said processor prior to said second message, said first message comprising storage control information, nor said

processor… processes or executes said contents automatically for trial use, absent receipt of any command initiated by a user.

Kamada a processor to receive contents comprising a first message and a second message, said first message received by said processor prior to said second message, said first message comprising storage control information **[a method/system wherein a terminal device, such as a cell-phone (par. 0150) downloads applications from a network wherein an "ADF file is application attribution data to be downloaded prior to downloading of the Jar file (or program)" (pars. 0153, 0206-0207) wherein the ADF files stores control information indicating whether the program or Jar file is for trial use or for unlimited use (pars. 0154, 0181, 0273-0276, 0293 and 0312)]**.

Sparks disclose said processor… processes or executes said contents automatically for trial use, absent receipt of any command initiated by a user as **["demonstration configuration data" wherein "a demonstration program configured to automatically load and execute the middleware program and server program on a single computer and to temporarily store the demonstration configuration data on the computer in a working middleware system… the demonstration system is preferably further configured to reverse all durable changes to the computer on completion of the demonstration" (pars. 0019-0022)]**.

Nakamura, Kamada and Sparks are analogous art because they are from the same field of endeavor of computer memory access and control.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the system/method taught by Nakamura wherein sound data downloaded from a server is classified into trial data which is temporarily stored in

volatile memory and regular data which may be registered and stored enduringly in non-volatile memory in a cell-phone environment, apply this methodology to other data types downloaded from a server to a cell-phone device such as those taught by Kamada (*including software, electrical data and the like, pars. 0146 and 0316*), wherein a description file indicating whether data is for trial use or unlimited use is received at the cell-phone before a Jar or program file is received; and further, process/execute trial contents received in the volatile RAM taught by Nakamura, automatically, absent a user command, as taught by Sparks.

The motivation would have been because Kamada discloses the server and cell-phone downloading system where trial data is downloaded may be configured to apply to different kinds of data/application, wherein a description file indicating whether data is for trial use or unlimited use is received at the cell-phone before a Jar or program file is received is done in order to **[configure and better manage the download of files from the server, according to configuration information stored in the ADF file (pars. 00340153, 0206-0207)]**, and Sparks discloses process/executing trial contents automatically, absent a user command provides the advantage of **[providing fast execution and demonstration of application/software to a computer user in a temporary data storage device, without permanently making changes to the computer (pars. 0002-0003, 0013, 0019-0021)]**.

Therefore, it would have been obvious to combine Nakamura with Kamada and Sparks for the benefit of creating a communication device to obtain the invention as specified in claims 13-14.

9. As per claim 16, the combination of Nakamura with Kamada and Sparks discloses The communication device of Claim 15, wherein the processor exits and automatically deletes the temporarily stored content in response to receipt of a user command to cease execution or processing of the temporarily stored content in the absence of an indication in the storage control information that the temporarily stored content is eligible for storage in the second storage area **[Nakamura discloses trial-listening music data is stored temporarily to volatile RAM 63 (pars. 0061, 0075) wherein "trial-listening music data cannot be registered… (*or stored in non-volatile RAM 64*) data indicating that the music data is the trial-listening music data" is written in the header (pars. 0061, 0073, 0075, 0101) wherein trial music data is deleted from RAM 63 after it has been executed by processor a predetermined number of times (par. 0098), absent and indication from the user that the user desires to purchase regular music data (0077, 0080). Sparks discloses "the demonstration system is preferably further configured to reverse all durable changes to the computer on completion of the demonstration" (pars. 0021-0022)]**.

10. As per clam 18, the combination of Nakamura with Kamada and Sparks The communication device of Claim 15, wherein the first storage area is a cache area of the memory, and the processor deletes data from the second storage area only in response to receipt of a user command to delete from the second storage area **[Nakamura discloses RAM 63 is volatile, which is interpreted to correspond to a cache memory area wherein trial music data is deleted from RAM 63 after it has been executed by processor a predetermined number of times (par. 0098) wherein portable telephone waits for an instruction from the user for purchasing or not purchasing regular data**

and if the user chooses to not purchase, then trial data is deleted from RAM 63 (par. 0080)].

11. As per claim 19, the combination of Nakamura with Kamada and Sparks discloses The communication device of Claim 15, wherein the first storage area and the second storage area are assigned areas of the memory **[Nakamura discloses RAM 63 and non-volatile RAM 64 (fig. 2 and related text) and Kamada discloses local storage 67 (fig. 1 and related text)]**.

12. As per claim 20, the combination of Nakamura with Kamada and Sparks discloses The communication device of Claim 15, wherein the first storage area and the second storage area are identified with a respective predetermined indicator flag included in the data stored in the respective first and second storage areas **[Nakamura discloses trial-listening music data is stored temporarily to volatile RAM 63 (pars. 0061, 0075) wherein "trial-listening music data cannot be registered… (*or stored in non-volatile RAM 64*) data indicating that the music data is the trial-listening music data" is written in the header (pars. 0061, 0073, 0075, 0101) wherein, when the user purchases regular music data, as indicated by header information, and upon user commands to store or register the data, regular music data may registered or stored from RAM 63 to non-volatile RAM 64 (pars. 0084-0087, 0101 and 0110-0112)]**; thus header data comprises indication as to which area may be used for data storage RAM 63 or RAM 64.

13. As per claim 21, the combination of Nakamura with Kamada and Sparks discloses The communication device of Claim 15, wherein the processor automatically processes or executes the temporarily stored content to enable a user to demo the temporarily stored

content **[Sparks discloses "a demonstration program configured to automatically load and execute the middleware program and server program on a single computer and to temporarily store the demonstration configuration data on the computer in a working middleware system… the demonstration system is preferably further configured to reverse all durable changes to the computer on completion of the demonstration" (pars. 0019-0022)]**.

14. As per claim 25, the combination of Nakamura with Kamada and Sparks discloses A communication device according to Claim 6, wherein said processor denies said contents from being read from said means for temporarily storing data and written in said content storage means in response to indication with said storage control information that said contents are not storable in said communication device **[Nakamura discloses trial-listening music data is stored temporarily to volatile RAM 63 (pars. 0061, 0075) wherein "trial-listening music data cannot be registered… (*or stored in non-volatile RAM 64*) data indicating that the music data is the trial-listening music data" is written in the header (pars. 0061, 0073, 0075, 0101)]**.

15. As per claim 26, the combination of Nakamura with Kamada and Sparks discloses A communication device according to Claim 6, wherein said processor-writes said contents into said content storage means in response to indication with said storage control information that said contents can be stored in said communication device **[Nakamura discloses when the user purchases regular music data, as indicated by header information, and upon user commands to store or register the data, regular music data is registered or stored from RAM 63 to non-volatile RAM 64 (pars. 0085-0087 and 0110-0112)]**.

16. As per claim 28, the combination of Nakamura with Kamada and Sparks discloses The computer readable storage medium program of Claim 11, wherein said content using process is executed to delete said contents stored in said means for temporarily storing content, and said second writing process is not executed in response to indication with said storage control information that said contents are for trial use only **[Nakamura discloses trial music data is deleted from RAM 63 after it has been executed by processor a predetermined number of times (par. 0098) wherein "trial-listening music data cannot be registered… (*or stored in non-volatile RAM 64*) data indicating that the music data is the trial-listening music data" is written in the header (pars. 0061, 0073, 0075, 0101). Sparks discloses "the demonstration system is preferably further configured to reverse all durable changes to the computer on completion of the demonstration" (pars. 0021-0022)]**.

17. As per claim 32, the combination of Nakamura with Kamada and Sparks discloses The communication device of claim 13, wherein exchange of said first identifier flag for said second identifier flag comprises modification with said processor of a first predetermined value representative of said first identifier flag to a second predetermined value representative of said second identifier flag **[The rationale in the rejection to claims 13-15 is herein incorporated]**.

18. As per claim 33, the combination of Nakamura with Kamada and Sparks discloses The communication device of claim 16, wherein said processor, prior to exit and automatic deletion of said the temporarily stored content, prompts said the user to store said the content in said the second storage area only in response to an indication in said content storage information that said the content is indicated as storable long term in said

the communication device **[Nakamura discloses trial-listening music data is stored temporarily to volatile RAM 63 (pars. 0061, 0075) wherein "trial-listening music data cannot be registered… (*or stored in non-volatile RAM 64*) data indicating that the music data is the trial-listening music data" is written in the header (pars. 0061, 0073, 0075, 0101) wherein trial music data is deleted from RAM 63 after it has been executed by processor a predetermined number of times (pars. 0080, 0098) wherein if it is determined that the received data is regular data according to header information, upon user request to register the data, the data may be registered or written to RAM 64 (0112, also see 0096-0101). Sparks discloses "the demonstration system is preferably further configured to reverse all durable changes to the computer on completion of the demonstration" (pars. 0021-0022)]**.

19. As per claim 35, the combination of Nakamura with Kamada and Sparks discloses A communication device according to Claim 6, wherein said processor awaits receipt of said store command initiated by said user of said communication device before said contents are read from said means for temporarily storing data, and said contents are written in said content storage means **[Nakamura discloses the user must purchase regular music data in order for this data to be registered or stored to non-volatile RAM 64 (pars. 0084-0087, 0101, 0110-0112) wherein portable telephone wait for an instruction for purchasing or not purchasing the regular data (par, 0080) and Kamada discloses, once the user has purchased applications, the user may download them from server (par. 0226)]**.

20. As per claim 36, the combination of Nakamura with Kamada and Sparks discloses The computer readable storage medium program of Claim 11, wherein said second

writing process is further executed to await receipt of said store command from said user of said communication device before being executed to write said contents in said content storage means after said contents are read from said means for temporarily storing content **[Nakamura discloses the user must purchase regular music data in order for this data to be registered or stored to non-volatile RAM 64 (pars. 0084-0087, 0101, 0110-0112) wherein portable telephone wait for an instruction for purchasing or not purchasing the regular data (par, 0080) and Kamada discloses, once the user has purchased applications, the user may download them from server (par. 0226)]**.

21. As per claim 37, the combination of Nakamura with Kamada and Sparks discloses The communication device according to Claim 13, wherein said processor awaits receipt of said second command received via said means for receiving a first command from a user before said contents are stored **[Nakamura discloses the user must purchase regular music data in order for this data to be registered or stored to non-volatile RAM 64 (pars. 0084-0087, 0101, 0110-0112) wherein portable telephone wait for an instruction for purchasing or not purchasing the regular data (par, 0080) and Kamada discloses, once the user has purchased applications, the user may download them from server (par. 0226)]**.

22. As per claim 38, the combination of Nakamura with Kamada and Sparks discloses The computer readable storage medium of Claim 14, wherein said second writing process is executed to await receipt of a store command received from said user via said means for receiving a command from a user before being executed to store contents processed or executed in said content using process **[The rationale in the rejection of claim 37 is herein incorporated]**.

23. As per claim 39. (New) The computer readable storage medium of Claim 11, wherein said first message includes an application description file, and said computer readable storage medium further comprises code executed as a requesting process to extract an application location identifier from said application description file, and transmit a request for said plurality of files that includes said application location identifier **[Kamada discloses a terminal device, such as a cell-phone (par. 0150) downloads applications from a network wherein an "ADF file is application attribution data to be downloaded prior to downloading of the Jar file (or program)" wherein the JAM extracts the location of the application from the ADF and transmits a request for the application to the site indicated by the ADF (pars. 0153, 0206-0207)]**.

24. As per claim 40. (New) A communication device according to Claim 6, wherein said communication device is a wireless communication device and said first message and said second message are wirelessly transmitted to said wireless communication device for receipt by said processor **[Kamada discloses said terminal device comprises a mobile cell phone device wherein transmissions are wireless (pars. 0150, 0153, 0183)]**.

25. As per claim 41. (New) A communication device according to Claim 6, wherein said storage control information is preset by a content provider that provides said contents to be for trial use or to remain stored in said communication device **[Nakamura discloses data is written in the header of data received from server indicating whether the data is trial data or regular data wherein trial data may only be stored temporarily in volatile RAM 63 and regular data may be stored in non-volatile**

RAM 64 (0086-0087, 0092, 0101, 0103, 0110-0112). Kamada discloses the ADF files stores control information preset by server indicating whether the program or Jar file is for trial use or for unlimited use (pars. 0154, 0181, 0273-0276, 0293 and 0312)].

26. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamada et al. (US 2005/0044191) in view of Hurst et al. (US 2004/0198308).

27. As per claim 42 (New) A computer readable storage medium storing a program executable by a wireless mobile communication device, the computer readable storage medium comprising: **[mobile communication device, such as a cell-phone (par. 0150) having software and hardware to perform the described invention (par. 0151)]** computer code executable to receive contents comprising a first message comprising a first part of said contents, said first part of said contents comprising storage control information of said contents; computer code executable to generate and transmit a request for a second message comprising a second part of said contents, said request generated to include information included in said first message; computer code executable to receive said second message; **["the JAM 64 executes downloading of the Jar file, ADF (application descriptor file) and the like, management of the ADF files including analysis thereof and exchanges messages with the Java VM 61" (par. 0153) wherein "The ADF file is application attribution data to be downloaded prior to downloading of the Jar file" (par. 0154, 0206-207)]**

computer code executable to store said first message and said second message in said wireless mobile communication device in response to said storage control information indicating that said contents are for trial use; and computer code executable to store said

first message and said second message enduringly in said wireless mobile communication device **[ADF and Jar files are stored in storage device (par. 0206-0207) wherein the ADF comprises control information indicating whether contents of Jar file are for trial use or for unlimited use (pars. 0154, 0181, 0273-0276, 0293 and 0312)]**.

However, Kamada does not expressly disclose that trial data is stored temporarily in response to storage control information indicating that said contents are for trial use and should be stored temporarily, nor computer code executable to store said first message and said second message enduringly in said wireless mobile communication device in response to said storage control information indicating that said contents can be stored enduringly in said wireless mobile communication device.

Nakamura discloses a mobile communication device wherein trial data is stored temporarily in response to storage control information indicating that said contents are for trial use and should be stored temporarily, nor computer code executable to store said first message and said second message enduringly in said wireless mobile communication device in response to said storage control information indicating that said contents can be stored enduringly in said wireless mobile communication device as **[trial-listening music data is stored temporarily to volatile RAM 63 (pars. 0061, 0075) wherein "trial-listening music data cannot be registered… (*or stored in non-volatile RAM 64*) data indicating that the music data is the trial-listening music data" is written in the header (pars. 0061, 0073, 0075, 0101) wherein regular music data is registered or stored in non-volatile RAM (pars. 0086-0087) and information indicating that data is regular music data is also present in the header (par. 0112)]**.

Kamada and Nakamura are analogous art because they are from the same field of endeavor of computer memory access and control.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the method/system wherein applications are downloaded to a mobile wireless device for trial use or indefinite use as taught by Kamada and further only store trial data temporarily in response to storage control information indicating that data is for trial use and should be stored temporarily and store data enduringly in response to storage control information indicating data may be stored enduringly in said communication device as taught by Nakamura since Nakamura discloses this **[would allow the user to try out data content without permanently storing said content in or using memory resources with non-user preferred data or trial data which the user does not choose to permanently store (pars. 0005, 0061)]**.

Therefore, it would have been obvious to combine Kamada with Nakamura for the benefit of creating a system/method to obtain the invention as specified in claim 42.

ACKNOWLEDGMENT OF ISSUES RAISED BY THE APPLICANT

Response to Amendment

28. Applicant's arguments filed on January 26, 2009 have been fully considered but are moot in view of the new ground(s) of rejection.

29. In Applicant's remarks filed on January 26, 2009, Applicant states that claim 18 had not been examined; however, claim 18 had been addressed in pages 22-23 of non-final rejection mailed on 8/1/2008.

CLOSING COMMENTS

Conclusion

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Examiner's Note

31. Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

When responding to this Office Action:

12. Applicant is requested to indicate where in the disclosure support is to be found for any new language added to the claims by amendment. 37 C.F.R. § 1.75(d)(1) requires such support in the Specification for any new language added to the claims and 37 C.F.R. § 1.83(a) requires support be found in the Drawings for all claimed features.

32. Applicant must clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the references cited or the objections made, and must also explain how the amendments avoid the references or objections. See 37 C.F.R. § 1.111(c).

a. STATUS OF CLAIMS IN THE APPLICATION

33. The following is a summary of the treatment and status of all claims in the application as recommended by **M.P.E.P. 707.07(i)**:

a(1) CLAIMS REJECTED IN THE APPLICATION

34. Per the instant office action, claims 6, 8-11, 13-16, 18-21, 25-26, 28-33 and 35-42 have received a first action on the merits and are subject of a final rejection.

a(2) CLAIMS NO LONGER UNDER CONSIDERATION

35. Claims 1-5, 7, 12, 17, 22-24, 27, 29-31 and 34 have been canceled as of amendment received on January 26, 2009.

b. DIRECTION OF FUTURE CORRESPONDENCES

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaima Campos whose telephone number is (571) 272-1232. The examiner can normally be reached on Monday to Friday 8:30 AM to 5:00 PM.

37. If attempts to reach the above noted Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Sanjiv Shah, can be reached at the following telephone number: Area Code (571) 272-4098.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 9, 2009

/Yaima Campos/
Examiner, Art Unit 2185

/Sanjiv Shah/
Supervisory Patent Examiner, Art Unit 2185